



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

JUL 12 2005

2005 JUL 12 AM 9:04

Ref: 8ENF-W

CERTIFIED MAIL 7003-2260-0001-7791-5930
RETURN RECEIPT REQUESTED

FILED
EPA REGION VIII
HEARING CLERK

Rob Kittay, Senior Scientist
South Dakota Department of Environment
and Natural Resources
Drinking Water Program
Joe Foss Building
523 East Capital Ave
Pierre, South Dakota 57501-3182

NOTICE OF VIOLATION

Docket No. SDWA-08-2005-0038

Shirt Tail Gulch Development
PO Box 393
Deadwood, SD 57732
PWS ID# SD4602232

Dear Mr. Kittay:

The above referenced public drinking water system has violated certain provisions of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f, *et seq.* and the National Primary Drinking Water Regulations at 40 C.F.R. part 141. The violations consist of failure to monitor for pesticides for four consecutive quarters; exceeding the maximum contamination level (MCL) average for combined radium -226 and radium -228; failure to monitor for lead and copper; failure to provide public notice; and failure to notify the State of the violations. Our records, obtained from the South Dakota Department of Environment and Natural Resources (DENR), indicate the violations noted below. Please notify Melanie Wasco of my staff at (303) 312-6540 within 20 days if your records show any discrepancies with these determinations of violation.

<u>Date of Violation</u>	<u>Violation</u>
Second and third quarters 2004	Failure to monitor for pesticides [40 C.F.R. § 141.24(h)]
Second quarter 2004	Failure to monitor for volatile organic contaminants [40 C.F.R. § 141.24(f)]
October 2004	Exceeding the maximum contamination level (MCL) average for combined radium -226 and radium -228 [40 C.F.R. § 141.66(b)]

January- June 2004 Failure to monitor for lead and copper (initial tap sampling)
[40 C.F.R. § 141.86(d)]

2005 Failure to provide public notice of the above-referenced violations
[40 C.F.R. § 141.201]

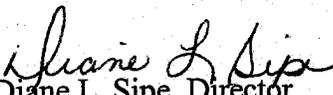
2004-2005 Failure to report the above-referenced violations to the State
[40 C.F.R. § 141.31(b)]

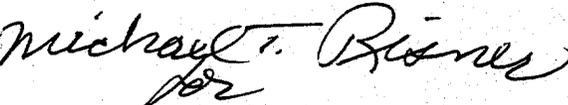
This NOTICE OF VIOLATION is issued pursuant to section 1414(a) of the SDWA, 42 U.S.C. § 300g-3(a). If the State does not commence appropriate enforcement action within 30 days from the receipt of this notification, the EPA is authorized either to issue an Administrative Order under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g) requiring the public water system to comply with the regulations or requirements, or to commence civil action under section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b).

Please inform EPA in writing of any change in the compliance status of this system. You may wish to confer with my staff to determine the Agency's position concerning this system and to exchange appropriate information. If the State does not commence appropriate enforcement action within 30 days from the receipt of the notification, EPA will proceed with issuance of an administrative order. Our technical contact is Melanie Wasco at (303) 312-6540.

A copy of this NOTICE OF VIOLATION has been concurrently sent to the system identified above. Also enclosed for the benefit of the System is a copy of EPA's Small Business Regulatory Enforcement and Fairness Act (SBREFA) fact sheet containing information on compliance assistance resources and tools available to small businesses. EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the same time of an Agency enforcement action. SBREFA does not eliminate the responsibility to comply with the Act.

Sincerely,


Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: James Rogers, Operator
Shirt Tail Gulch Development Water System